

REMARKS

Claims 29-39, 41-50, and 54-61 are pending in this application. Claims 29-31 and 41-61 stand rejected. By this Amendment, claims 1-28, 40, and 51-53 have been cancelled without prejudice and claims 29, 31, 39, 41, 43, 45, 48, 49, 54, 56, 58, 60, and 61 have been amended. In light of the amendments and remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

In the Preliminary Amendment filed January 22, 2004, Applicants claimed the benefit of an earlier filing date under 35 USC § 120, to U.S. Patent No. 6,285,987, having a filing date of January 22, 1997. Applicants submit herewith a Petition to correct the inventorship of the present application. Applicants request that the Examiner amend the inventorship under 1.48(b) to delete Heidi Kay and Russell Fradin. The invention of Heidi Kay and Russell Fradin no longer being claimed. Applicant respectfully requests correction of inventorship per the concurrently submitted petition. You are hereby authorized to charge the required fee under Section 1.17 (\$130.00) to our credit card. PTO Form 2038 is attached hereto.

The Office Action fails to acknowledged Applicants' claim to the earlier filing date. Applicants respectfully request the Examiner acknowledge such claim to priority. Applicants claim to the priority date is permissible, being that the present application was filed before November 29, 2000 (see 37 CFR § 1.78(a)(2)(ii)(B)) and that the present application was co-pending with the application that eventually issued as U.S. Patent No. 6,285,987.

Following are Applicants arguments in response to the rejections issued by the Examiner.

Rejection under 35 USC § 101

The Examiner rejected claims 29, 31-37, 39, 41, 43-49, 51-54, and 56-60 under 35 USC § 101 because the claims are directed to non-statutory subject matter. More specifically, the Examiner noted that the claims fail the “Useful Arts” or “Technological Arts” test, because the claims do not explicitly recite a connection with technology, such as computers. Applicants respectfully traverse this rejection.

Applicants have carefully reviewed the Examiner’s analysis of the “Useful Arts” test, and the referenced citations. Applicants submit that the claims, as amended, provide further emphasis of the “Useful Arts” in the claims. Further, Applicants cancellation of claims 51-53 renders this rejection moot, at least with respect to those claims. Accordingly, withdrawal of the rejection under 35 USC § 101, is respectfully requested.

Rejection under 35 USC § 102(e)

The Examiner rejected claims 29, 31-37, 39, 41, 43-49, 51-54, and 56-61 under 35 USC 102(e) as being anticipated by Hanson et al. (5,974,398). The present application is a Continuation-in-Part of U.S. Patent No. 6,285,987, filed January 22, 1997. The cancellation of claims 51-53 renders this rejection moot with respect to these claims. All of the claims rejected under section 102 are fully supported by the disclosure of the ‘987 Patent, and therefore may be afforded the benefit of the filing date of the ‘987 Patent. The Hanson reference was filed April 11, 1997, after the filing of the application to which claims 29, 31-37, 39, 41, 43-

49, 54, and 56-61 claim priority. As such, Applicants respectfully request the withdrawal of the rejection under 35 USC § 102 as the Hanson reference is not prior art with regard to the claims in the present Application which are supported by the disclosure of the '987 Patent. Applicants have not addressed the substantive rejections as Hanson is not prior art as disclosed above.

Rejection under 35 USC § 103

The Examiner rejected claims 1-13 and 19-23 under 35 USC 103(a) as being unpatentable over Gerace (5,991,735) in view of Hanson et al. (5,974,398). This rejection is moot as Applicants have cancelled these claims without prejudice. Applicants may seek comparable claims in a continuation application, and thus have not dedicated the subject matter to the public.

The Examiner has also rejected the new claims 30, 38, 40, 42, 50 and 55 as being unpatentable over Hanson. As discussed above, the Hanson reference is not prior art with respect to claims 30, 38, 42, 50 and 55. Thus, Applicants request withdrawal of the rejection.

Claim 40 has been canceled without prejudice rendering the rejection of that claim moot. Applicants may seek the issuance of claims comparable to claim 40 in a continuation application.

Applicants have responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims is therefore respectfully requested. It is asserted that the present amendment places the Application in a form for allowance.

Application No.: 09/216, 206

Docket No.: B2745.0025/P0025

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: September 22, 2004

Respectfully submitted,

By 

Ian R. Blum

Registration No.: 42,336

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

1177 Avenue of the Americas

New York, New York 10036-2714

(212) 835-1400

Attorney for Applicants

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 262741538 US, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: September 22, 2004

Signature: 

(Ian R. Blum)